

Amendment No. 1 to HB0039

Curcio
Signature of Sponsor

AMEND Senate Bill No. 1035

House Bill No. 39*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. This act is known and may be cited as the "Jim Coley Protection for Rape Survivors Act".

SECTION 2. Tennessee Code Annotated, Section 39-13-519, is amended by deleting subsection (b) and substituting:

(b) A victim of a sexually-oriented crime is entitled to a forensic medical examination without charge to the victim as provided in § 29-13-118. Within twenty-four (24) hours of the conclusion of the forensic examination, the healthcare provider shall notify the applicable law enforcement agency that a sexual assault evidence collection kit or hold kit is ready for release. Within seven (7) days of being notified, the law enforcement agency shall pick up the sexual assault evidence collection kit or hold kit for storage or transmission to the state crime lab or other similar qualified laboratory for either serology or deoxyribonucleic acid (DNA) testing.

SECTION 3. Tennessee Code Annotated, Section 39-13-519, is amended by deleting subdivision (c)(1) and substituting:

(1) If an adult victim elects not to report the alleged offense to police at the time of the forensic medical examination, the sexual assault evidence collection kit becomes a hold kit, and the healthcare provider shall assign a number to identify the kit rather than use the victim's name. The healthcare provider shall provide the victim with the identifying number placed on the victim's hold kit; information about where and how long the kit will be stored; procedures for making a police report and information about the

electronic tracking system procured by the Tennessee bureau of investigation pursuant to Section 10; contact information for local rape crisis centers, if any; and a copy of the rights of a victim of a sexually oriented crime as set forth in Section 9. The hold kit must be released to the appropriate law enforcement agency for storage pursuant to subdivision (d)(2). Once a victim makes a police report, the law enforcement agency shall change the kit status in the system prior to submitting the kit to the state crime lab or other similar qualified laboratory for either serology or DNA testing.

SECTION 4. Tennessee Code Annotated, Section 39-13-519(d)(1), is amended by deleting the language "sixty (60) days" and substituting the language "thirty (30) days".

SECTION 5. Tennessee Code Annotated, Section 39-13-519(d)(2), is amended by deleting the language "sixty (60) days" and substituting the language "thirty (30) days".

SECTION 6. Tennessee Code Annotated, Section 39-13-519(d)(2), is amended by deleting the language "three (3) years" and substituting the language "ten (10) years".

SECTION 7. Tennessee Code Annotated, Section 39-13-519, is amended by adding the following as new subsections:

() Beginning July 1, 2022:

(1) A law enforcement agency, the state crime lab, and any other similar qualified laboratory that receives, maintains, stores, or preserves sexual assault evidence collection kits or hold kits must participate in the electronic tracking system administered by the Tennessee bureau of investigation pursuant to Section 10;

(2) A law enforcement agency receiving a sexual assault evidence collection kit after the conclusion of the forensic medical examination must provide the victim with a tracking number for the sexual assault evidence collection kit, and a copy of the pamphlet created by the Tennessee bureau of investigation pursuant to Section 10 explaining how to access and use the tracking system and the victim's right to receive testing status updates of the

victim's sexual assault evidence collection kit generated by the Tennessee bureau of investigation or similar qualified laboratory; and

(3) A law enforcement agency receiving a sexual assault evidence collection kit or hold kit from a healthcare provider must enter the sexual assault evidence collection kit or hold kit into the tracking system within ten (10) days of receipt of the evidence from the healthcare provider. The location and status of the evidence must be updated in the tracking system by the law enforcement agency and the state crime lab or other similar qualified laboratory taking possession of the kit at each step of the process, including submission of the evidence to the laboratory for testing, laboratory testing status, and evidence disposition following laboratory testing.

() Upon receipt of DNA data analysis results from the Tennessee bureau of investigation pursuant to § 38-6-113(d) or similar qualified laboratory, the investigating agency must, upon a victim's request and within a reasonable time, notify the victim of whether a DNA sample was obtained from the analysis and whether the analysis resulted in a match to a DNA profile in state or federal databases, unless disclosure of the information would impede or compromise the investigation.

SECTION 8. Tennessee Code Annotated, Title 39, Chapter 13, Part 5, is amended by adding the following as a new section:

() Sexual assault forensic evidence obtained pursuant to § 39-13-519 may not be used:

(1) To prosecute a sexual assault victim for any misdemeanor offense or any offense defined under title 39, chapter 17, part 4; or

(2) As a basis to search for further evidence of any unrelated misdemeanor offense or any offense defined under title 39, chapter 17, part 4, that may have been committed by the sexual assault victim.

SECTION 9. Tennessee Code Annotated, Title 40, Chapter 38, Part 1, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Crime assistance program" includes, but is not limited to, programs that provide appropriate counseling and support to victims;

(2) "Sexually-oriented crime" means those crimes listed in § 29-13-118(b); and

(3) "Victim" means a victim of a sexually-oriented crime.

(b) A victim of a sexually-oriented crime has the right, upon request, to:

(1) Consult with a crime victim advocate from a crime assistance program or a victim-witness coordinator as provided for in § 8-7-206 at any stage of the criminal proceeding;

(2) Have a support person of the victim's choosing present during any forensic medical examination and during any interview with law enforcement, the prosecuting attorney, the defendant, or the defendant's attorney;

(3) Be interviewed by a law enforcement officer of the gender of the victim's choosing if reasonably available;

(4) Be informed by the appropriate agency of a change in the status of the victim's case, including whether the case has been closed or reopened;

(5) Be notified when the investigating agency has received results of the medical forensic evidence DNA analysis from the Tennessee bureau of investigation or other similar qualified laboratory;

(6) Be informed of whether a DNA sample was obtained from the analysis and whether the analysis resulted in a match to a DNA profile in state or federal databases unless disclosure would impede or compromise the investigation; and

(7)

(A) Be informed, upon a victim's request, by the appropriate law enforcement agency at least sixty (60) days before the intended date of destruction or disposal of the victim's sexual assault evidence collection kit evidence or other evidence from an unsolved sexual assault case if the intended date of destruction or disposal is prior to the expiration of the applicable statute of limitations; and

(B) Request retention of the evidence for an additional twelve (12) months or for a time period agreed upon by the victim and the appropriate law enforcement agency.

(c) The victim has a duty to keep current information regarding the victim's location so that the appropriate agency may be able to contact the victim.

SECTION 10. Tennessee Code Annotated, Title 38, Chapter 6, Part 1, is amended by adding the following as a new section:

(a) As used in this section, "forensic medical examination", "hold kit", "law enforcement agency", "sexual assault evidence collection kit", and "victim" have the same meaning as defined in § 39-13-519.

(b) The Tennessee bureau of investigation shall procure and implement an electronic system that tracks the location and laboratory analysis status of each sexual assault evidence collection kit and hold kit released to a law enforcement agency at the conclusion of a forensic medical examination on or after July 1, 2022.

(c) The system must have the capacity to allow a victim to track by internet the location and status of the victim's sexual assault evidence collection kit by use of a tracking number provided to the victim by the law enforcement agency receiving the sexual assault evidence collection kit after the conclusion of the forensic medical examination. At any time, the victim must be able to use the tracking number by inputting the tracking number into an online system to determine the current location and laboratory analysis status of the victim's sexual assault evidence collection kit.

(d) The Tennessee bureau of investigation shall create a written pamphlet explaining how to access and use the tracking system. The law enforcement agency described in subsection (c) must provide the pamphlet to the victim with the tracking number.

(e) Records and information contained in the tracking system pursuant to this section are confidential and not a public record.

SECTION 11. Sections 6 and 10 of this act take effect upon becoming a law, the public welfare requiring it. All other provisions of this act take effect July 1, 2021, the public welfare requiring it.